

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

228C0126

## HOUSE BILL NO. 1075

Introduced by: Representatives Eccarius, Broderick, Brooks, Brown (Richard), Davis, Diedrich (Larry), Duniphan, Fiegen, Fischer-Clemens, Koetzle, Konold, Kooistra, and Richter and Senators Hutmacher, Brown (Arnold), Everist, Flowers, Hainje, Ham, Madden, Moore, Olson, Shoener, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions related to public school open  
2 enrollment procedures and tuition.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-28-22 be repealed.

5 ~~—13-28-22. All nursery, kindergarten, elementary, and secondary students not entitled to the~~  
6 ~~free school privileges of the district wherein they are enrolled may be charged tuition.~~

7 Section 2. That § 13-28-23 be repealed.

8 ~~—13-28-23. If a student has been assigned by the school board of the district where the student~~  
9 ~~has a school residence or has been assigned as provided by statute, the school board shall pay~~  
10 ~~the student's tuition. The school boards shall take action on any request regarding the~~  
11 ~~establishment of the tuition rate or the payment of tuition within forty-five days after receiving~~  
12 ~~the request. The school board may negotiate the rate of tuition with a school board or any other~~  
13 ~~payer. A school board's decision with respect to the student assignment may be appealed to the~~  
14 ~~circuit court in the time and manner specified by § 13-46-1 or to the secretary of the Department~~  
15 ~~of Education and Cultural Affairs within thirty days from the date of the decision of the school~~

1 ~~board by filing a notice with the secretary of the school board and mailing a copy of the notice~~  
2 ~~to the secretary of the Department of Education and Cultural Affairs. The board shall take into~~  
3 ~~consideration when negotiating the rate of tuition the average cost of educating a student in the~~  
4 ~~district including transportation if required.~~

5 Section 3. That § 13-28-38 be repealed.

6 ~~—13-28-38. Tuition required pursuant to § 13-28-22 may be waived if agreed to by the school~~  
7 ~~boards involved. Notwithstanding §§ 13-6-85, 13-28-10, 13-28-20, and 13-28-21, the decision~~  
8 ~~of a school board to waive or not to waive tuition is final except as specifically provided in this~~  
9 ~~section. If a school board agrees to waive tuition, the district receiving the student may count~~  
10 ~~the student for state funding formula purposes and is entitled to reimbursement for that student~~  
11 ~~through the state funding formula. Any request for a waiver of tuition shall be made to the~~  
12 ~~affected school boards by the parent or guardian of the affected student. The school boards shall~~  
13 ~~take action on the request within forty-five days after receiving the request. A school board's~~  
14 ~~decision pursuant to this section may be appealed to the circuit court in the time and manner~~  
15 ~~specified by § 13-46-1 or to the secretary of Education and Cultural Affairs within thirty days~~  
16 ~~from the date of the decision of the school board by filing a notice with the secretary of the~~  
17 ~~Department of Education and Cultural Affairs. The granting of any waiver is not a legal~~  
18 ~~precedent for any future request for waiver.~~

19 Section 4. That § 13-28-43 be amended to read as follows:

20 13-28-43. A student's parent or legal guardian who wishes to enroll the student, or an  
21 emancipated student who wishes to enroll, under the provisions of §§ 13-28-40 to 13-28-47,  
22 inclusive, in a South Dakota school district other than the resident district or in a school within  
23 the resident district other than the school to which the student has been assigned shall, ~~not later~~  
24 ~~than February first of the school year preceding the year of enrollment,~~ apply on forms provided  
25 by the Department of Education and Cultural Affairs.

1       ~~By March first, the~~ The school board of the district in which the student desires to enroll shall  
2       approve or disapprove the application. ~~The board and~~ and shall notify the applicant and the resident  
3       board, if applicable, of its decision within five days of the decision. The district in which the  
4       student desires to enroll shall review the applications in the order received.

5       ~~However, intradistrict~~ Intradistrict transfer applications may be accepted and acted upon at  
6       any time at the board's discretion if the policies on which the transfer decisions are based are  
7       consistent with the other requirements of §§ 13-28-40 to 13-28-47, inclusive.

8       An application may be withdrawn by the applicant ~~any time before March first~~ upon  
9       notification of the district to which the student applied. Once approved by the district in which  
10      the student wishes to enroll, the approved application serves as the applicant's notice of intent  
11      to enroll in the nonresident district or desired school during the next school year and obligates  
12      the student to attend school in the nonresident district or desired school during the next school  
13      year, unless the affected school board or boards agree in writing to allow the student to transfer  
14      back to the resident district or assigned school, or unless the parents, guardians, or emancipated  
15      student change residence to another district.

16      ~~If a student's parents, or an emancipated student, move from a resident district into another~~  
17      ~~district after February first, the parents or emancipated student may apply for enrollment in a~~  
18      ~~nonresident district or in a nonassigned school under provisions of §§ 13-28-40 to 13-28-47,~~  
19      ~~inclusive. In such a case, the school boards of both the new resident district and the nonresident~~  
20      ~~district shall waive the application and approval dates outlined in §§ 13-28-40 to 13-28-47,~~  
21      ~~inclusive, and the affected board shall review the application in a timely manner as outlined~~  
22      ~~above. The applicant and the resident board shall be informed of the board's decision within five~~  
23      ~~days of the board's action on the application.~~ Once enrolled in a nonresident district or  
24      nonassigned school, the student may remain enrolled and is not required to resubmit annual  
25      applications.